

AG Contract No. KR00 1592TRN
ADOT ECS File No. JPA 00-121
Project: TEA-PRV-0(2)P/SL423 01R
Section: Trails ROW Acquisition

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF PRESCOTT VALLEY

THIS AGREEMENT is entered into 7 December, 2000,
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended,
between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF
TRANSPORTATION (the "State") and the TOWN OF PRESCOTT VALLEY, acting by and
through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. Congress has authorized appropriations for, but not limited to, transportation enhancements including roadside attractions of historic preservation.

4. Such project within the boundary of the Town has been selected by the Town; the survey of the project has been completed; and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

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NO 24354
Filed with the Secretary of State
Date Filed: 12/07/00

Betsy Bayless
Secretary of State

Dicky D. Gravenwold

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The Town, in order to obtain federal funds for the acquisition of right of way for the project, is willing to provide Town funds to match federal funds in the ratio required or as finally fixed and determined by the Town and FHWA.

7. The work embraced in this agreement, to be administered by the Town, and the estimated costs are as follows: Right-of-Way Acquisition.

Right of Way Acquisition

Estimated Project Cost	\$ 298,282.00
Federal Aid Funds @ 94.3%	\$ 281,280.00
Town Funds @ 5.7%	\$ 17,002.00
Total Town Funds	\$ 17,002.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for acquisition.

a. If such project is approved by FHWA and the funds are available for the project, the Town with the aid and consent of the State and the FHWA will proceed to acquire the right of way necessary for the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the FHWA. The State will enter into a Project Agreement with FHWA covering the work embraced in said right of way acquisition and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the Town shall be obligated to incur any expenditure in excess

2. Prior to the commencement of right of way acquisition, the Town shall set aside sufficient funds in the amount determined to be necessary to match federal funds in the ratio required.

3. Upon completion of right of way acquisition, the Town shall provide for, at its own cost and as an annual item in its budget, appropriate and proper maintenance.

4. The Town shall allow public access to the completed project and grounds during normal business hours.

5 The Town will provide personnel to supervise the acquisition of right of way.

6 The Town will complete the acquisition project in accordance with the requirements of the relevant State and federal statutes, rules, or regulations. In the event the Town fails to comply with any relevant State or federal statutes, rules, or regulations, the Town shall hold the State harmless from any claims or costs incurred by the State as a result of the Town's failure to comply.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the project, any engineering in connection therewith, cost over-runs and claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the right of way acquisition covered by this agreement is to be borne by FHWA and Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, Town agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3 This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4 This agreement shall become effective upon filing with the Secretary of State.

5 This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6 The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7 In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007

Town of Prescott Valley
Town Manager
7501 E Civic Circle
Prescott Valley, AZ 86314


9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

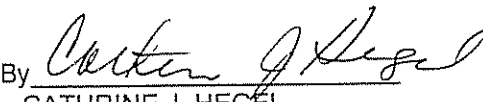
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF PRESCOTT VALLEY

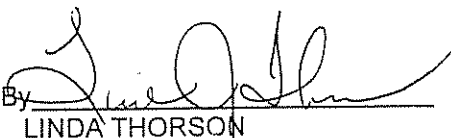
STATE OF ARIZONA

Department of Transportation

By 
RICHARD KILLINGSWORTH
Mayor

By 
CATHRINE J. HEGEL
Contract Administrator

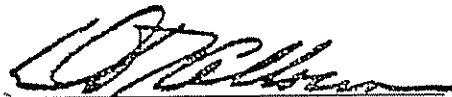
ATTEST:

By 
LINDA THORSON
Town Clerk

RESOLUTION

BE IT RESOLVED on this 24th day of August 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Town of Prescott Valley for the purpose of defining responsibilities for conveying federal funds for Trails ROW.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

TOWN OF PRESCOTT VALLEY
REGULAR COUNCIL MEETING MINUTES
OCTOBER 12, 2000

Call to Order – The meeting was called to order by Mayor Killingsworth at 7:00 pm at the Magistrate Courtroom. Present were:

Richard Killingsworth	Mayor
Jay Fagelman	Vice-Mayor
Eunice Conner	Council Member
Chuck Ables	Council Member
Mike Flannery	Council Member
Marilyn Rabideau	Council Member
Fran Schumacher	Council Member

Announcements – Town Manager, Anthony Mortillaro, introduced Chris O'Brien, the Town's new Community Relations Coordinator. Candice Manibusan, new Receptionist/Records Clerk for the Community Development Department and Public Works Department, was introduced also.

Consent Agenda #5 Moved by Council Member Schumacher, seconded by Vice Mayor Fagelman and unanimously approved by all members voting "aye".

Presentation of Certificate of Appreciation to Joe Scott, Planner I, for five years of dedicated service. – Mayor Killingsworth presented Certificate to Mr. Scott.

Presentation of Certificate of Appreciation, gift certificate and savings bond to Woody Lewis, Chief Building Inspector, for fifteen years of dedicated service - Mayor Killingsworth presented Certification of Appreciation, gift certificate to a restaurant of his choice and a \$100 savings bond to Mr. Lewis.

Presentation of Certificate to Ivan Legler, Town Attorney, for ten years of dedicated service – Mayor Killingsworth presented Certificate to Mr. Legler.

Presentation by Robert Baldwin, Arizona State Parks, regarding a Grant for Ball field Lighting at Mountain Valley Park – Robert Baldwin, representative from the Arizona State Parks presented a "Big Check" for \$265,000 to the Mayor and Council. Mike Huff, Little League representative, informed the Mayor and Council how excited they were. The Mayor informed the group that letters of regret for not being able to attend were received from Governor Hull, Bob Stump and Senator McCain's office.

includes the \$21,816.00. This project would be completed before next budget year. A motion was made by Council Member Rabideau and seconded by Council Member Ables to approve an agreement with Stantec Consulting, Inc. for engineering services for the wastewater treatment plant improvements in the amount of \$21,816. All members voted aye by roll call vote.

Consideration of approving an Intergovernmental Agreement with Arizona Department of Transportation (ADOT) for federal funds in the amount of \$281,280.00 for Rails to Trails right on way - Nils Gustavson, Public Works Capital Projects Coordinator, informed the Mayor and Council that this project began in 1996. This agreement finalizes us getting the money to purchase the Rights of Way. Ninety-five percent of this project is federal monies. The motion was made by Council Member Ables to approve IGA JPA 00-121 and accept \$281,280.00 in federal funds for this specific purpose, and authorize the Mayor or, in his absence the Vice-Mayor, to sign the inter-governmental agreement. This motion was seconded by Councilmember Schumacher and unanimously approved by all members voting "aye".

First reading of Ordinance No. 489, amending the Town Zoning Map to change the zoning classification of Lot 963 in Unit 3, from R1L-10 Zoning (Residential: Single, Family Limited) to C1-4 Zoning (Commercial, Neighborhood Sales and Services), and Lots 961 and 962, Unit 3, from R1L-10 Zoning (Residential: Single Family Limited) to RS-4 Zoning (Residential Services) - Town Manager Mortillaro asked the Mayor and Council to continue this item to an unspecified date. It was anticipated that the applicants would come back for further discussion and consideration at this meeting. They were not prepared to do so.

The motion was made by Council Member Ables to continue the hearing on this item and possible first reading of Ordinance 489 to an unspecified future council meeting awaiting receipt of materials requested by Council during the September 2000 review. This motion was seconded by Council Member Schumacher and unanimously approved by all members voting "aye".

Consideration of approving the signage package for the Civic Center building and authorizing to go out to bid - Richard Parker, Director of Community Development, introduced Moira Huss who, along with Brenda Rosa, researched this effort. An overhead presentation was given. This sign package came as a result of requests we had from the public who were trying to find various services in the Civic Center. The goal is to provide consistency in signs and colors by floor. Council Member Schumacher proposed that a new logo committee be formed to structure this effort. A motion was made to approve proposed signage for the Civic Center by Vice-Mayor Fagelman, seconded by Council Member Flannery and unanimously approved by roll call vote.

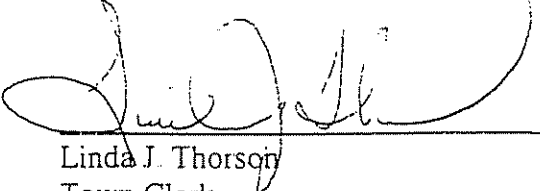
First reading of Ordinance No. 491, revising and clarifying Town purchase procedures –
Town Manager Mortillaro explained that this ordinance clarifies responsibilities of the Town Manager, the Mayor and the Town Attorney in respect to purchasing. Specifically, the Ordinance provides that the Town Manager may sign contracts involving expenditures of less than \$16,000.00, if budgeted. If the expenditures are not budgeted, the contracts will be brought back to Town Council for consideration and approval. In addition, it does provide for the Mayor, based on the Council's approval, to sign contracts in excess of \$16,000 (grants and other items in the code) and it provides for the Town Attorney to approve all contracts, but in certain circumstances simply review drafts of contracts and other documents initiated by other departments. Motion was made by Council Member Conner, seconded by Council Member Ables, and unanimously approved by all members voting "aye".

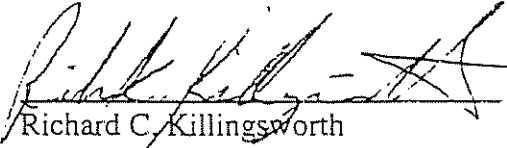
Consideration and discussion of general unscheduled comments from the public. Those wishing to address the Council need not request permission in advance. Any such remarks shall be addressed to the Council as a whole and not to any member thereof. Such remarks shall be limited to (5) minutes unless the Mayor grants additional time.

At the conclusion of the unscheduled comments, individual members of the Council may respond to the items addressed at the direction of the Mayor, or they may ask staff to review the matter or ask that the matter be placed on a future agenda.

Moir Huss, 5184 Desert Lane, expressed enthusiasm of the ball field lighting on behalf of the Prescott Valley Little League. Jim Copeland, 4941 N. Verde Vista, asked that the inconsistency be checked in to regarding some vendors (particularly himself) paying to sell at the swap meet and others have not. Mr. Mortillaro, Town Manager, indicated he will be checking into this and reporting back to the Council and to Mr. Copeland

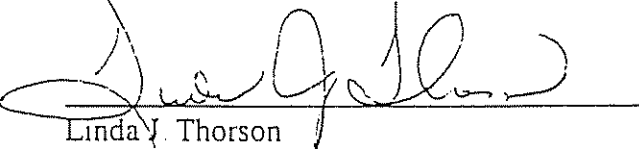
Adjournment


Linda J. Thorson
Town Clerk


Richard C. Killingsworth
Mayor

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Council meeting, held on the 12th day of October, 2000. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 23rd day of October, 2000.


Linda J. Thorson
Town Clerk

JPA 00-121

APPROVAL OF THE PRESCOTT VALLEY TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF PRESCOTT VALLEY and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 18th day of October, 2000.

John Leglar

Town Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

TRN Main: (602) 542-1680

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MAIN PHONE: (602) 542-5025

FACSIMILE: (602) 542-4085


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR00-1592TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED October 16, 2000.

JANET NAPOLITANO
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ggt

Enc.

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